



RAJEEV CHANDRASEKHAR
MEMBER OF PARLIAMENT
RAJYA SABHA

Member of Standing Committee on Defence
Member of Consultative Committee on Defence
Member of Central Advisory Committee for the National Cadet Corps
Co-Chairman, Vigilance & Monitoring Committee, Bangalore Urban District
Vice Chairman, National Military Memorial Management Trust, Bangalore

23 August, 2016

Dear Shri Siddaramaiah *avare*:

I welcome your Government's belated efforts – to take cognizance of and address the issue of Illegal constructions and violations of laws in our city and within our civic agencies.

I have repeatedly written to you since you assumed office as Chief Minister on the need for reforming and cleaning up Bengaluru from the clutches of vested Interests. So, the efforts of the government to take custody of such lands and the removal of illegal encroachments around lakes and water bodies in Bengaluru are laudable.

However, in this connection I would like to draw your attention to the following issues begging the attention of your kind office:

1. No double standards for the rich and well connected
2. Compensation to the victims and the displaced; and
3. Prosecution of guilty and culpable government officials under the existing laws

The plight of the citizenry who stand to lose out, upon demolition actions being undertaken, not for any fault of theirs but due to the limitless greed and avarice of certain builders and real estate agents is palpable. Their belief in the Governments regulatory and surveillance role caused them to fall prey and at times invest their life's savings in these properties which have now been determined to be illegal. It is in their interest, I urge you to devise some mechanism to grant compensation such that their lot may be ameliorated by the beneficial assistance of the State in such moments of crisis. In fact, I draw your kind attention to certain observations and suggestions made by the Hon'ble



Apex Court as early as in 2004 in *Friends Colony Development Committee v. State of Orissa & Ors.*, (2004) 8 SCC 733, whereby the Court has urged the States to create a welfare fund out of heavy penalties which may be imposed on unscrupulous builders who had misused the trust of unwary purchasers and at times actively deceived or cheated them.

Further, it is noticed that while helpless homeowners have had their homes demolished and reclaimed by the Government, visible large projects that have blatantly violated laws and encroached on public lands remain untouched and left alone in the form of several malls, IT parks etc. That the Government of Karnataka, BBMP and Revenue Department are practicing double standards in the drive on illegalities is obvious to all. The helpless individual citizen remains the only victim while the rich and powerful continue to go scot free and enjoy the benefits of their illegal actions.

Most importantly, the efforts to ensure the protection of the populace and the environment cannot be limited to the reactive actions which are now being undertaken by the State, and must go beyond to curb the menace of rampant violations of law and illegal constructions at its root. The factum of rampant illegalities in and around Bengaluru, is itself demonstrative of the fact that certain government officials are complicit in the illegal designs of the real-estate lobby. I am given to understand that certain departmental enquiries have been initiated against some junior officers of various departments. However, as you must be perceptive and as has been time and again pointed out in various decisions of the Hon'ble Supreme Court, including the one mentioned above, that serious collusion of high ranking officials in the government results in such rampant illegalities being perpetrated. These facts beg a thorough investigation as to how government servants (including but not limited to officers at the SEIAA, KIADB, Revenue Departments and BDA) could turn a blind eye and be complicit to such extensive violations of law.

I have sought and received advise from various legal experts that a wide number of extensive laws have been violated by these guilty officials, builders and real-estate companies in these illegalities in our city. It is absolutely important that prosecution of these accused must cover all these violations under all these laws. I am enclosing in a separate annexure a list of the laws under which prosecution is necessary.

In the interest of the citizenry and the people of the city, I urge you to initiate an urgent inquiry into the matter, identify the government and public servants whose actions and omissions are culpable and launch criminal prosecution so that all erring and corrupt government servants and all guilty real estate developers/builders are brought to justice.



The cases filed must cover ALL relevant violations of the law and cherry-picking the weakest violations will only create and reinforce the perception that Government is complicit in protecting the guilty.

No elected Government can expect to get away by making the citizens alone the victims of negligence and corruption and so I expect and hope that action in this regard will be initiated promptly. Any delay or inaction will constrain me to invoke the jurisdiction of courts and tribunals of competent jurisdiction to further enforce the rights of the citizens against all those who are responsible for these crimes as well as for preventing any enquiry and prosecution of these crimes.

Sincerely,

RAJEEV CHANDRASEKHAR

Shri Siddaramaiah

Hon'ble Chief Minister of Karnataka
Vidhana Soudha, Bengaluru

Enclosure: Law's and provisions that have been violated in Bengaluru under which the accused must be prosecuted (05 Pages)



Law's and provisions that have been violated in Bengaluru under which the accused must be prosecuted:

A) Legal provisions relating to public bodies in Karnataka:

(a) Relevant provisions of the Karnataka Municipal Corporations Act, 1976

Section 2(10)	'Essential Services' read with Schedule II Schedule II: Clause 1(b) – Maintaining, repairing, cleaning drains Schedule II: Clause 1(e) – Preventing nuisance generally Schedule II: Clause 2(b) – Services in connection with maintenance of drains, includes inspectors etc.
Section 2(22)	'Nuisance' – Includes any act or omission which causes or is likely to cause injury or which is or may be dangerous to life.
Section 58	Obligatory functions of the Corporation
Section 58(4)	Construction and maintenance of drains
Section 58(19)	Construction and maintenance of Public Streets and Culverts
Section 58(23)	Securing or removal of dangerous buildings and places
Section 59	Discretionary functions of the Corporation – Example Sec. 59(8): Provision of music for the people.
Section 90	Punishment for Corporation officers and other employees
Section 222	Maintenance of sewers and sewage disposal works
Section 321	Demolition or alteration of buildings commenced, carried on or completed unlawfully
Section 288A	Prohibition of structures which cause obstruction in public streets
Section 288D	Commissioner may without notice remove encroachments.
Chapter IX	Nuisances
Section 324	Precautions in case of dangerous tanks, wells, holes, etc.

(b) Relevant provisions of the Karnataka Land Revenue Act, 1964

Section 38	Power to enter upon any lands on premises for the purposes of measurements, etc.
Section 192A R/w Section 192B	Abetment of offence of: Unlawfully enters or occupier on any government land with the intention of holding that Government Land.



Section 192A R/w Section 192B	Abetment of offence of: Cheats and thereby dishonestly creates documents for the purpose of selling, mortgaging or transferring by gift or otherwise of any Government land.
Section 192A R/w Section 192B	Abetment of offence of: Creates a forged document regarding Government lands with an intention to use it for that purpose or to grab such land.
Section 192A	Being a Revenue Officer entrusted with the responsibility of reporting unlawful occupation of Government land or initiating action to remove such unauthorised occupiers fails to report or take action to remove such unlawful occupants.
Section 192A	Contravenes any lawful order passed under this Act.
Section 192B	Abetment of offences.
Section 200 R/w Section 192B	Offences by Companies.

B) Legal provisions relating to general criminal liability:

(a) Relevant provisions of the Indian Penal Code, 1860

Section 109	According as offence abetted is cognizable or non-cognizable	Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment- if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, the act shall be punished with the punishment provided for the offence.
Section 166	Non-cognizable	Public servant disobeying law, with intent to cause injury to any person - shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.
Section 167	Non-cognizable	Public servant framing an incorrect document with intent to cause injury — shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
Section 217	Non-cognizable	Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture - shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both



Section 218	Cognizable	Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture - shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
Section 268		Public nuisance: Doing any act or being guilty of an illegal omission causing common injury, danger or annoyance to public or people who occupy property in the vicinity.
Section 290	Non- cognizable	Punishment for public nuisance (not otherwise provided) – Rs.200/- fine
Section 304A	Cognizable	Causing death by doing any rash or negligent act. Punishment: 2 years + fine.
Section 336	Cognizable	Any act done so rashly or negligently so as to endanger human life or personal safety of others. Punishment: 3 months + fine
Section 337	Cognizable	Causing hurt by doing any act rashly or negligently. Punishment: 6 months + fine
Section 338	Cognizable	Causing hurt by any act rashly or negligently. Punishment: 2 years + fine
Section 420	Cognizable	Cheating and dishonestly inducing delivery of property - shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
Section 464		Making a false document
Section 465	Non- Cognizable	Punishment for forgery - shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both
Section 466	Non- Cognizable	Forgery of record of Court or of public registry, etc. - shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
Section 468	Cognizable	Forgery for purpose of cheating - shall be punished with imprisonment of either de-scription for a term which may extend to seven years, and shall also be liable to fine.

(b) Relevant provisions of the Code of Criminal Procedure, 1973

Section 154	Information relating to cognizable offence – shall lead to registration of FIR.
Section 156	Cognizable case may be investigated, without the order of a Magistrate



(c) Relevant provisions of the Prevention of Corruption Act, 1988

Section 13(1)(d)	Criminal misconduct by a public servant -if he, — (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;
Section 13(2)	shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

C) Relevant provisions under Environmental laws:

(a) Relevant provisions under the Environmental (Protection) Act, 1986

Section 15	Penalty for contravention of the provisions of the act and the rules, orders and directions - be punishable with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention. If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years
Section 17	Offences by government departments - Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(b) Relevant provisions under the National Green Tribunal Act, 2010

Section 17	Liability to pay relief or compensation in certain cases - Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal.
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(c) Relevant provisions under the Water (Prevention and Control of Pollution) Act, 1874

Section 25	<p>Restrictions On New Outlets And New Discharges</p> <p>(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, --</p> <p>(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or an extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or</p> <p>(b) bring into use any new or altered outlets for the discharge of sewage; or</p> <p>(c) begin to make any new discharge of sewage;</p> <p>Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior to such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.</p>
Section 26	<p>Provision regarding existing discharge of sewage or trade effluent- Where immediately before the commencement of this Act any person was discharging any sewage or trade effluent into a stream or well or sewer or on land, the provisions of section 25 shall, so far as may be, apply in relation to such person as they apply in relation to the person referred to in that section subject to the modification that the application for consent to be made under sub-section (2) of that section shall be made on or before such date as may be specified by the State Government by notification in this behalf in the Official Gazette.</p>
Section 44	<p>Penalty for contravention of section 25 or section 26- Whoever contravenes the provision of section 25 or section 26 shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to six years and with fine</p>
Section 45A	<p>Penalty for contravention of certain provisions of the act - Whoever contravenes any of the provisions of this Act or fails to comply with any order or direction given under this Act, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees or with both and in the case of a continuing contravention or failure, with an additional fine which may extend to five thousand rupees for every day during which such contravention or failure continues after conviction for the first such contravention or failure</p>